G. R. S. 58
Previous references.

File No. 100 of 03-04

1903-04

(Courts)

Serial Nos. 1 to 4

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 4

Part B. for

SUBJECT.

Proceedings of the Chief Court upon the legality of an order passed by the Dist. Magte Bangalore under Sec 435 & 523 Cr. P. C.

Forwarded copy of Dist Magte's order dated 1-9-03 and also copy of Chief Court proceedings thereon pointing out the illegality of the Magte's order directing the First class Magte Closepet to submit all complaints that may be brought before him (i.e.) to the Dist. Magte for orders.

GCB ..8,000—7-4-07

Invites attention to para 6 of the chief Court procs.

Passed on the Dist. Magte's order ~~dated to the~~ ~~1st class Magte [illegible]~~ Dated 7.7.03 concerning the exercise of Criminal powers ~~exer~~ by ~~the~~ Mr. Ahmad Spl. Asst. Coll. & 1st class Magte and ~~promise~~ observes that the Dist Magte will take needful action in the matter.

With reference to [illegible] state that though the magistrate's work is generally far from satisfactory, yet there is nothing sufficiently glaring to induce me to withdrawal of the 1st class Magte's powers exercised by him.

1808 9/J Dated 5.7.06

Receives the opinion of the magistrate with reference to cl. 3

Office of the Dewan of Mysore.

File No. (if any)

Directions. Judicial **Branch**

No., date and purport of receipts to be entered in red, and office note in black ink in order of dates.—To be written only on one side, and inside the line of margin.

Office Note.

Subject

Proceeding of the Chief Court upon the legality of ~~t~~ an order passed by the Dt Magt of Bangalore under Secs 435 and 528 of the Cr P. C.

Vide copy subd by the Registrar.

The Dt Magt of Bangalore issued a Pro: to the Asst Comr & 1st class of Closepet & the 2nd para of it is as follows "The Asst Comr Closepet Range is also requested to submit all criminal complaints that may be brought before him to this Court for orders as soon as he takes them on his file"

The Chief Court doubting the legality of such an order, sugg of the Dt Magt ~~to~~ & under which provision of the law ~~on~~ he gave such a general direction to the Asst Comr & Magt. The Dt Magt in reply said that the order was passed under Secs 435 and 528 of the Crl P.C. & that judging from previous records of Crl cases tried by the Asst Comr & Magt of Hospet, it was thought better not to trust him with any very serious cases.

Finally the Chief Court observed in their Pro: (~~the~~ a copy of wh is now forwarded to the Gt for information) that if the Dt Magt is satisfied that the Asst Comr is not fit to be entrusted with the powers of a 1st Class Magt, a representation should be made to Gt to that effect ~~and that~~ so long as the Asstt Comr is permitted to exercise the powers of a 1st Class Magt, his powers shd not be interfered with or crippled otherwise than as is provided by the Crl Procedure Code

Submitted for orders.

Mr [illegible] The attention of the Dt Magte may be drawn to the last para of the Chief Comr's proceedings, and he may be asked to ~~state~~ ~~whether~~ submit at once through the Chief Comr any recommendation he may ~~have~~ wish to make in the matter of Mr Ahmed Ali's powers, together with the reasons therefor.

To Secy

10-11-13

I am not sure whether any action need be taken on this. The Distt Magte's order was quite illegal & it may be presumed he has withdrawn it.

15/11/3

To [illegible] [illegible] the [illegible] [illegible] Council [illegible]

I presume the District Magistrate will take the necessary action on the hint thrown out by the Chief Court - ~~I [illegible]~~ There ~~I agree that we~~ seems however no harm in inviting the District Magistrate's attention to the case. Para of the Chief Court order. Approving the Chief Court by sending him a copy of ~~[illegible]~~ their order, expecting to take same action — ll

18/11/03

This may be done. Why send only one para - the whole proceedings be sent which shows

14174
21.11.03

19/11
20.11.03

What the Distt Magte has already ordered

MMB
22.XI.03

H 23/11/03

Resubd to Secy

The proceedings of the Chief Court have been already communicated by the Registrar to the District Magte., & it is a copy thereof which has been sent to us for information. This was why it was not proposed to send a copy afresh to the Dt. Magte.

Draft put up. 24/11/03

Draft issued with Secy's appl.

In reply, the Dt. Magistrate states that he has since examined the Court of the 1st class Magistrate of [illegible] in charge of which Mr Ahmed Ali was for some time and got him to explain the errors and omissions found in connection with the Registers &c., and that though this Magistrate's work is far from satisfactory, there is nothing sufficiently glaring to induce his Court to recommend the withdrawal of the 1st class powers exercised by that Magistrate.

Submitted for orders with a draft recording.

G.P.

Draft sub'd to the Dewan
thro' the 2nd Councillor

26/2/04

693
D. 26.ii.04

The report is not altogether favourable tho' the District Magistrate is not quite prepared to recommend the withdrawal of 1st Class powers. Withdrawals can only be recommended on specific, and not on general grounds. Hence Mr Sparkes's difficulty.

Para 2 of the Secretariat draft is I think unnecessary. The Chief Court ~~upon an order~~ pointed out the error judicially and the District Magistrate must be presumed to have ~~given effect to it~~ rectified it. I hope Mr. Mahomed Alli will be placed in a position where he will have as little magisterial work as possible.

27-2-04

16196
29.2.04

27.2.04

No. 2826/124 Cri: 1 J 732 File no 100 of 03-04 Sl. 1 1

Bangalore, 6th November 1903.

From,

V. A. Rajaratna Mudaliar Esq.,
Registrar, Chief Court of Mysore.

To,

H. V. Nanjundayya Esq., M.A., M.L.,
Secretary to Government,
General and Revenue Departments.

Sir,

I am directed to forward, for the information of Government, copy of this Court's Proceedings No: 2825/1609 of this date passed on perusal of an order of the District Magistrate, Bangalore, dated 7th September 1903, a copy of which is also forwarded.

I have the honor to be,
Sir,
Your most obedient Servant,
V. Raja Ratna Mud
Registrar

mm

N. $\frac{2825}{1609}$

Proceedings of the Chief Court of Mysore.

Bangalore 6th November 1903

Read Proceedings of the District Magistrate of Bangalore dated 7th September 1903.

The second para of the Proceedings is as follows:— "The Assistant Commissioner, Closepet Range," "is also requested to submit all criminal complaints that may be brought before him to this Court for orders, as soon as he takes them on his file".

The legality of the order appeared doubtful and the District Magistrate was requested to quote the provision of the law under which he gave such a general direction to the Assistant Commissioner and Magistrate. He writes that "the order was passed under Sections 435 and 528, Criminal Procedure Code, as judging from previous records of Criminal cases tried by this Magistrate, it was thought better not to trust him with any very serious cases".

Section 528 empowers the District Magistrate to withdraw any particular case, or if so empowered by Government, any class of cases, from the file of a Subordinate Magistrate. The order which should be passed under this Section is a judicial order and the reason for the same should be recorded in writing. The section does not authorize the District Magistrate to call for all complaints filed in the assistant Commissioner's Court with a view to determine whether the assistant Commissioner shall or shall not try all or any of them.

Section 435 empowers the District Magistrate to call for the record of any proceeding "for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order". There can be no room for revision when the assistant Commissioner has not done anything beyond admitting a complaint on his file.

If the District Magistrate is satisfied that the assistant

Commissioner is not fit to be entrusted with the powers of a first class Magistrate, a representation should be made to Government to that effect. But so long as the assistant Commissioner is permitted to exercise the powers of a First Class Magistrate, his powers should not be interfered with, or crippled otherwise than as provided by the Procedure Code.

(Signed) O. A. Rajaratna Mud.
Registrar.

To, The District Magistrate,
Bangalore

'Copy'

Rajaratna Mud
Registrar

mlm

Order

As the Assistant Commissioner, Closepet Range, Mr: Ahmed Alli, has an extremely limited knowledge of the English language, he is requested to submit all his Judgments, Resumes, orders &c in Canarese until further orders.

He is also requested to submit all Criminal complaints that may be brought before him to this Court for orders, as soon as he takes them on his file.

(Signed) H. H. Sparkes,
District Magistrate,
Bangalore Dist:

Bangalore
7" September 1903

"Copy"
Registrar

nim

File no: 100 of 03 04

6

1069 / J 27/11/03.

To The Dt. Magte,
Bangalore.

Has the honor to invite the attention of the ~~District~~ Magt to ~~the~~ the last para of the State proceedings of the Chief Court of the 6th Nov 1903 passed on the Dt Magt's proceedings of 7th Sepr 1903, concerning ~~anent~~ the exercise of criminal powers by Mr Ahmed Ali, Extra Astt Comr & First-class magistrate. It is presumed that the Dt Magte will take needful action in the matter.

24.11.03

28/11/03 Secy

Expd. 26/11/03

File no 100 of 03 04 J. 1239
Sl. 2

1903/04

From
The Dt Magistrate
Bangalore Dt

The Secy to the Govt
of Mysore
Rev and Genl Depts

Dated 13th
Despatched 15th } Feby 04.
Received

General No.
S. No. 716
Enclosure No.

Secy's No 1069 of 27th November 1903.

States that explanation was called for in regard to certain errors and omissions in registers from Mr Ahamad Ali while he was in charge of Hoskote range as 1st Class Magte and that it is not necessary to recommend the withdrawal of 1st class powers exercised by him

Ind
18.2.04

Bangalore District
Dt Magistrate's Office
Bangalore 13th February 1904

From,

H H Sharkes Esq
Dt Magistrate
Bangalore Dt

To,

L Anantasami Rao Esq B.A
Offg Secy to the Govt of Mysore
Rev and Genl Depts

Sir,

In acknowledging the receipt of your Docket No 1069 dated 27th November 1903, calling on me to take needful action vide the last para of the Proceedings of the Chief Court dated 6th November 1903, concerning the exercise of Criminal powers by Mr Ahamad Ali 1st Class Magistrate, I have the honor to state that I have since examined the [illegible]

of

of the 1st Class Magistrate of Jhsebet in charge of which Mr Ahamad Ali was for some time and got him to explain the errors and omissions found in connection with the Registers, &c. Though this Magistrate's work generally is far from satisfactory, there is nothing sufficiently glaring to induce this Court to recommend the withdrawal of the 1st Class powers exercised by that Magistrate

I have the honour to be,

Sir,

Your most obedient Servant,

Sparks

Dt Magistrate.

File no: 100803 of 10.
St. 4

Read:

Letter no. 716 dated 13th February 1904 from the Dt. Magte, Bangalore reporting with reference to this Office docket no 1069 dated 27th November 1903, that he has since examined the Court of the 1st class Magistrate of Closepet, in charge of which Mr Ahmed Ali was for some time and got him to explain the errors and omissions found in connection with the Registers etc, and that though this Magistrate's work is far from satisfactory there is nothing sufficiently glaring to induce him ~~his Court~~ to recommend the withdrawal of the 1st class powers exercised by that Magistrate.

Order thereon:-

Recorded

P.J.O.

~~Offg. Secretary~~

~~the Dt. Magte, Bangalore~~

A. 27/2/04

18089 / 5/3/04

2.3.04

3/3/04

issued 4/3/04

~~2. It should be reported whether the District Magistrate has withdrawn his Order dated the 7th Septr 1903 directing the Asst Commr and 1st Class Magistrate, Closepet Range, to submit to the Dt Magte for orders all criminal complaints brought before him and taken on his file~~

~~I do not think~~ Is this necessary? I don't think it is for Govt to enquire whether the District Magistrate has rectified an error judicially pointed out to him by the Chief Court.
d
27/10

Ed
Offg Secretary

To
The Distt Magte, Bangalore
Registrar of the Chief Court of Mysore